

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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UNITED STATES OF AMERICA,

Plaintiff

v.

ROBERT STURMAN,

Defendant

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09-665  
Criminal No. ~~09-965~~

REPLY TO GOVERNMENT'S RESPONSE

**RECEIVED**  
DEC 19 2012

Dated: December 13, 2012

By: 

Robert Sturman, pro se

I

**The Defendant in Reply addresses the Government's response to Defendant's Motion to Dismiss.**

The government in response adopts the wrong issue and makes the wrong inquiry. It is not an issue of timeliness defendant presents. The inquiry is the Court's authority within its jurisdiction, ab initio, a facially factually defective indictment.

The criminal jurisdiction of the United States is wholly statutory. U.S. v. Flores, 289 U.S. 1937 (1933). "The District Court shall have original jurisdiction exclusive of the states, of all offenses against the laws of the United States." (18 U.S.C. §3231). Thus, the federal courts are without jurisdiction to try an accused for any offense other than denounced by Act of Congress, Id. Hence, the courts of the United States cannot undertake to adjudicate any act or omission as a crime unless it has been made such by an act of Congress, U.S. v. Hudson & Goodwin, 3 L. Ed. 259 (1806).

Consequently, the District Court in Eastern Pennsylvania has no jurisdiction over any offense not made punishable by the Constitution, laws or treaties of the United States (Pettibone v. United States, 148 U.S. 197 (1893)).

If the Federal District Court of Eastern Pennsylvania is without jurisdiction of a charged offense, its judgment, in this case, is void on its face. Bauman v. United States, 156 F.2d 534 (5<sup>th</sup> Cir 1946). A fortiori if indictment counts 1,2,4,7,8,9,14 and 15 do not charge an offense cognizable under the laws of the United States Constitution, statutes or treaties, the District Court of Eastern Pennsylvania, was without jurisdiction. Its judgment of conviction of defendant is void ab initio.

This is the issue defendant represents, jurisdiction. Timeliness stands aside. First this court must decide whether it has authority within its jurisdiction to proceed to adjudicate the merits of timeliness.

Jurisdiction is the threshold inquiry. In every instance, a federal court has the obligation to inquire into the jurisdiction, however it is brought into question. See, Philbrook v. Glodgett, 421 U.S. 707 (1975).

It is axiomatic then, the District Court lacks jurisdiction to adjudicate and enter conviction for a charged offense not recognized as a crime under the laws of the United States.

Such is the government's problem for the ITSP counts charged as a scheme prohibited by 18 U.S.C § 2314. It is beyond debate the statute (§2314) as plead, charges no offense against the laws of the United States to induce the Court's power to adjudicate. Defendant's scheme conduct, as charged, is not criminalized by 18 U.S.C. § 2314. The Second Circuit Court of Appeals made clear the 18 U.S.C. § 2314 "does not criminalize scheme or action taken pursuant to schemes. It does not refer to, not does it set forth as an element, a scheme to transport, transmit, or transfer such property." Capoccia, 503 F.3rd 112.

## II

### **"Goods and Merchandise" is not a Security under § 2314**

Counts 1, 2, 4, 7, 8, 9, 10, 14 and 15 charge the transfer in interstate commerce of two of section 2314's object elements of "goods, wares, merchandise, securities or money." A check is defined in 18 U.S.C. § 2311 as a security, not as "goods" or "merchandise" as charged in the nine 2314 counts.

As the indictment of the nine ITSP makes clear, defendant, on the face of the indictment, did not transfer goods and merchandise in interstate commerce. A check is a security, and a security is a distinct element of section 2314 to be pled separately as an essential element of 2314. The failure to allege an essential element of the offense is a

fatal flaw not subject to mere harmless error analysis but a fatal flaw requiring dismissal. United States v. Resendiz-Ponce, 106 L.Ed. 2d 591 (2007).

Where, as in this case, the government identifies a check, cashiers' check and money orders as goods and merchandise that traveled in interstate commerce. Nowhere within the face of the indictment for counts 1, 2, 4, 7, 8, 9, 10, 14 and 15 can be found "goods" or "merchandise" as described or identified that the defendant transported or caused to be transported. "Thus while the indictment must include all of the elements of the crime alleged, United States v Spinner, 180 F. 3d 514 (3<sup>rd</sup> Cir 1999), as well as specify facts that satisfy all those elements, an indictment that merely recites "in general terms the essential elements of the offense" is not sufficient. Panarella, 277 F. 3<sup>rd</sup> at 684-85

"When as in this case, an indictment fails to allege all elements of an offense, the defect may be raised by the court sua sponte. We have held that "failure of an indictment sufficiently to state an offense is a fundamental defect... and it can be raised at any time." Wander, 601 F.2d at 1259." United States v. Spinner, 180 F.3<sup>rd</sup> 514, 516. "Finally Spinner did not waive his jurisdictional defect by entering a guilty plea. In United States v. Caperell, 938 F.2d 975 (9<sup>th</sup> Cir. 1991), the Ninth Circuit Court of Appeals held that "although a guilty please generally waives all claims of constitutional violation occurring before the plea, 'jurisdictional' claims are an exception to this rule Id. At 977 (quoting United States v. Montillia, 870 F.2d 549,552 (9<sup>th</sup> Cir. 1989), amended at 907 F.2d 115 (9<sup>th</sup> Cir. 1990)("Claims that the 'applicable statute is unconstitutional or that the indictment fails to state an offense' are jurisdictional claims and not waived by the guilty plea", Spinner at 516.

### III

**The Government is not correct regarding the Argument that Rule 12(b)(3) motion must be made before trial – Excusable Neglect.**

The Rule reads in part, “a motion alleging a defect in the indictment or information ...**But at any time while the case is pending, the Court may hear a claim that the indictment or information fails to involve the courts’ jurisdiction or to state an offense.**” (emphasis added)

Further Rule 12(b)(3) states, “a court may excuse a defendants failure to timely file a motion for “good cause.”” Defendant acknowledges the motion is untimely but asks the consideration of the Court to invoke excusable neglect for the following reasons.

The Defendant was employed in the financial services industry for 25 years with no training or experience in the practice of law. Despite his total lack of knowledge he has vigorously attempted to protect and preserve his rights.

Pursuant to Fed. R. Crim. P. 12(e), a Court may excuse a defendant’s failure to timely file a motion for good cause. In this case, good cause is present due to the numerous attempts of defendant to pursue his legal rights in this matter. These attempts included many attempts to communicate with his appellant counsel, either in person by attempting phone calls, email contact, all of which were either denied or never answered until after November 2011, after the appellate brief was filed. These attempts commenced on or about March, 2011.

Defendant also sent written correspondence to the District Court and Circuit Court of Appeals Clerk seeking new counsel and to file a pro se brief. The Third Circuit, on March 6, 2012, issued an Order denying leave to file a pro se brief. Defendant was never notified by the Appellate Court of the decision and had no notification from appellate counsel as was promised to Defendant. There fore Defendant was not able to file his motion before the Mandate issued, as he would have done if he had been notified timely.

Pursuant to Fed. R. Crim. P. 12(e), a Court may excuse a Defendants failure to timely file a motion for good cause. In this case, good cause is present due to the

numerous attempts by Defendant to pursue his rights diligently and prejudice that resulted from not being notified of events. Appellate Counsel never met with Defendant, did not accept emails, or phone calls, with the exceptions of one call after the brief was filed. Defendant wrote a letter requesting Appellate Counsel to not submit a reply brief until and after consulting with Defendant, whom he never consulted with which was not done. In fact Appellate Counsel filed no Reply Brief at all.

Defendant also sent written correspondence to the United States District Court for the Eastern District of Pennsylvania and the United States Court of Appeals for the Third Circuit seeking new counsel and to file a pro se Brief due to the abandonment of Appellate Counsel. Defendant also sent a letter to the Philadelphia Bar Association seeking assistance and guidance. All of these efforts fell on deaf ears.

Appellate Counsel did send a letter stating that he would inform Defendant “once I hear from the Third Circuit. Of course it could well be many months before a decision is rendered.” Appellate Counsel never informed Defendant as promised nor did Defendant receive any notice that the Third Circuit did in fact render its ruling. Defendant was in a “Catch-22” position, as the Courts would not address appellate counsels abandonment nor accept any motions from Defendant pro se, while represented by appellate counsel, yet a motion could not be filed until the appeal was decided. Defendant diligently tried to pursue, protect and preserve his rights from March 18, 2011 through this entire ordeal and filed his motion as soon as Defendant discovered the appeal had been decided.

#### **IV**

#### **Constitutional Violations and Excusable Neglect**

The Constitutional violations are of such an egregious nature and should be addressed Sua Sponte. In this matter, the defendant’s constitutional rights have been so egregiously violated to the degree that constitutes a manifest injustice therefore.

The Court should excuse the untimely filing of Defendant's 12(b)(3) for "good casue. Defendant should be entitled to excusable neglect because he has been diligently perusing his rights and extraordinary circumstances stood in his way in enforcing his rights. Defendant took every reasonable step to protect his rights in this matter, by attempting to communicate with his counsel, and the Court and the Third Circuit Court of Appeals, to advise them of his desire to be consulted and to allow for his input into the process. All of his efforts were rebuffed however, leaving him no access to the process.

### **Conclusion**

It is respectfully submitted that the relief sought by the Defendant herein be granted in its entirety. Respectfully submitted.

Dated: December 13, 2012

By: 

Robert Sturman, pro se  
No. 61613-066  
Federal Prison Camp Lewisburg  
P.O. Box 2000  
Lewisburg, PA 17837



**Certificate of Service**

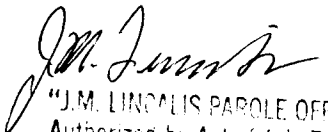
This is to certify that I have this date, under penalty of perjury [Title 28 U.S.C. section 1746], served a true and correct copy of the forgoing Reply, made pursuant to Fed. R. Crim. P. Rule 12(b)(3)(B) on the following:

Karen L. Grigsby  
Assistant United States Attorney  
Office of the United States Attorney  
Suite 1250  
615 Chestnut Street  
Philadelphia, PA 19106

Clerk of the Court  
Clerk's Office  
United States Courthouse  
Independence Mall West  
601 Market Street  
Philadelphia, PA 19106-1797

By placing same in the United States mail, first class, postage prepaid and properly affixed thereto.

Dated: December 13, 2012

 12-13-12  
"J.M. LINCALIS, PAROLE OFFICER"  
Authorized by Act of July 7, 1955  
to Administer Oaths  
(18 U.S.C. 4004)

By:

  
Robert Sturman, pro se



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2011

Revised

Dear Judge Surrick

I wrote you a few days ago requesting a new competent attorney. As I stated Mr Ruddenstein as Accepted NONE of my phone calls nor has he given me AN EMAIL ADDRESS TO REACH HIM. It is now 7 months since you appointed him and I AM now gravely concerned he may have coerced my appeal rights. I am currently incarcerated in Camden County Correctional Facility on the same charges I pled guilty to in Federal Court. While this is forbidden by both the United States and New Jersey Constitution I AM HERE NONE - THE LESS, mainly because of the pathetic job Mr Brennan did in defending me.

Even though Mr Ruddenstein is AWARE I AM HERE HE has made NO EFFORTS TO SEE ME OR CONTACT ME. If he cannot meet me in Camden I sincerely DOUBT HE WILL COME TO Allowood Correctional facility.

Will you PLEASE Appoint one ~~competent~~ competent attorney that can AND will represent me PLEASE.

There is NO DOUBT Mr BRENNAN SCREWED ME AND conspired with the government, to make sure I never received ~~required~~ due process.

I have many appeal issues starting with my Sentencing. PLEASE Appoint some who will provide effective assistance of council

Robert Sturm  
Robert Sturm  
61613-066

8/1/2011

ROBERT STURMAN 61613-06  
CAMDEN COUNTY CORRECTIONAL

Dear Honorable Judge Surrick

This is my last request to make sure I AM CRYSTAL CLEAR ABOUT MY INTENTIONS. MR RUDDENSTEIN HAS ANSWERED NONE OF MY PHONE CALLS OR ACCEPTED ANY EMAILS FROM ME. I HAVE VERY VALID AND LEGITIMATE APPEAL ISSUES DEALING WITH BOTH MY SENTENCING AND MR BRENNAN INEFFECTIVE ASSISTANCE OF COUNSEL. AS I HAVE STATED PREVIOUSLY I AM CURRENTLY INCARCERATED IN CAMDEN COUNTY CORRECTIONAL FACILITY, IN PART BECAUSE OF MR BRENNAN'S PATHETIC performance.

I very desperately need to meet with council before I AM RETURNED TO ATLANTWOOD. This facility is located approximately 10 minutes away from the U.S. Court House so there is NO valid reason why an attorney cannot meet with me. Will you **PLEASE** appoint a competent attorney to represent

me. I have been stripped of so many of my rights afforded to me by the United States Constitution. I AM SICK AND TIRED OF BEING TREATED in an unfair and most probably illegal fashion. It is NOT right.

When your Honor appointed MR BRENNAN I PUT MY TRUST IN YOUR DECISION AND YOUR INTEGRITY NEVER THINKING OR KNOWING HOW CORRUPT THIS SYSTEM IS. MR RUDDENSTEIN IS NO BETTER. I can't continually put my life in the hands of dirty filthy Lawyers. Will you please appoint SOMEONE TO REPRESENT ME who will put my best interest AHEAD OF THE NEED TO GET MORE LEGAL appointments

Thank you for taking the time to read this letter

Robert H. Sturman 61613-066

AUGUST 16, 2011

DEAR HONORABLE JUDGE SURRICK

PLEASE TELL ME WHAT DOES IT TAKE TO HAVE AN ATTORNEY APPOINTED TO PROVIDE EFFECTIVE ASSISTANCE OF COUNSEL? How many letters? Do you screen every request I send you? This is BEYOND PATHETIC. Will you PLEASE PROVIDE ME WITH WHAT I AM ENTITLED TO BUT NEVER RECEIVED, A lawyer, to REPRESENT ME. You allowed MR. BRENNAN to CONSPIRE WITH THE GOVERNMENT AND MR. POSEY TO MAKE SURE I WAS NEVER FAIRLY REPRESENTED. NOW, you appoint MR. RUODUSTREIN WHO TO DATE HAS NOT ACCEPTED ANY CALLS OR EMAILS. THIS IS UNAMERICAN and IS REALLY AMOUNT TO A TOTAL CROCK, Will you

PLEASE,

Appoint an attorney to represent me in my appeal. 8 months is long enough NOT TO HEAR FROM AN ATTORNEY. Don't ANY of you have just a desire to see a defendant be treated fairly. This is insane that you all can sit by and just screw people out of their rights. It's sickening.

PLEASE DO SOMETHING TO  
RECTIFY THIS SITUATION, PLEASE

Rick A. Stumm  
60613-066



Phil  
BAC  
A 55000

ROBERT STURMAN  
CAMDEN COUNTY CORRECTIONAL FACILITY  
P.O. BOX 96431  
CAMDEN NJ 08102

AUGUST 22, 2011

Please consider this a letter of last resort. My name is Robert Sturman. As of this writing I am currently incarcerated at Camden County Correctional Facility awaiting trial Sept 26 2011.

The purpose of this letter is to inform you of the most incompetent, ineffective assistance of counsel and betrayal of a client beyond anyones most wild imagination. During November 2009 Federal District Court Judge R. Barclay Surack appointed William J. Brownman to defend me against an indictment from the United States Attorney.

After meeting with Mr. Brownman that day he assured me that he would be back to the Federal Detention Center within the next 2 weeks to help me prepare for my defense. Mr. Brownman next showed up approx 3 months later refusing to discuss my case only spending 5 minutes with me trying to convince me to plead guilty. He came by approximately 2 months later for the same 5 minute speech about the virtues of pleading guilty and did the same thing another 2 months later. During that year of his representation he refused to subpoena any records or witnesses needed for my defense. He only send me 50% of my discovery refusing to send the rest of it. A victim in my case but still a close friend called his office over 300 times requesting the above information as well as voicing many other concerns. Mr. Brownman accepted her 1st phone call some 30 days after his appointment promising to address many of my concerns. He told her to feel free to call him if any other issues arose. That was the only call of her over 300 he ever accepted.

I told Mr. Brownman from our 1st meeting of my intention to plead NOT GUILTY yet he refused to initiate any type of defense strategy. He came to see me 8 days before my trial date telling me "We are ready to go to trial." I was incredulous. He never, never talked to me about ANY TYPE OF DEFENSE, ONLY THAT I SHOULD PLEAD GUILTY. The truth is

the Government's indictment was flawed beyond belief. Mr Brennan had in his hands crystal clear evidence that would have exonerated me from many of the government allegations yet he refused to consider that as an option. I wrote JUDGE SULLICK 4 LETTERS BEGGING HIM TO HAVE MR BRENNAN REPRESENT ME FAIRLY AND HONESTLY WITH NO RESPONSE.

THIS IS JUST THE BEGINNING. I ONLY AGREED TO PLEAD GUILTY BECAUSE MR BRENNAN REFUSED TO SERIOUSLY UNDERTAKE A DEFENSE STRATEGY. Before agreeing to plead guilty, MR BRENNAN PROMISED TO ARGUE THE AMOUNT OF VICTIMS IN MY CASE, TO ASK FOR A LESSER SENTENCE DUE TO EXTREME MITIGATING FACTORS. He did NONE OF THE ABOVE, IN FACT I NEVER SAW HIM AGAIN UNTIL 1 HOUR BEFORE MY SENTENCING. IN the interim he told the person doing my P.S.R not discuss my case IN ANYWAY AS HE (BRENNAN) would be filing motions for mitigating factors. I voiced several concerns ABOUT MY INDICTMENT AND P.S.R, to the person writing it told me he was forbidden to talk about any issues about my case but that I should SUBMIT ALL CONCERNS IN WRITING. The truth is my INDICTMENT AND P.S.R were severely flawed. When I wrote to CONTEXT SOME OF THE ISSUES MR POSEY, from PROBATION who wrote the REPORT TOOK AWAY MY CREDIT FOR ACCEPTANCE OF RESPONSIBILITY. At SENTENCING MR BRENNAN DID NOT ARGUE ANY OF THE GOVERNMENT'S ALLEGATIONS, MOST OF WHICH WERE OUTRIGHT LIES. He filed NO MITIGATING FACTORS NO CONTEXTING THE GOVERNMENT'S VICTIMS LIST AND ALLOWED THE GOVERNMENT TO RAILROAD ME WITH LIE AFTER LIE. I WAS SENTENCED TO 10 YEARS, TWO YEARS OVER MY GUIDELINE DUE TO MR BRENNAN'S INEFFECTIVE ASSISTANCE OF COUNSEL AND HIS ABSOLUTE REFUSAL TO EVEN ATTEMPT TO DEFEND ME IN ANY WAY. I HAVE A SECOND EQUALLY AS SERIOUS OF A PROBLEM

JUDGE SULLICK appointed a new ATTORNEY, DAVID RUDDERSTEN TO REPRESENT ME FOR MY APPEAL. I have very VALID appeal issues concerning



both my sentencing and Mr Brennan's INEFFECTIVE ASSISTANCE OF COUNSEL. THE PROBLEM is Mr RUDENSTEN HAS REFUSED TO ACCEPT ANY PHONE CALLS OR ACCEPT ANY EMAILS FROM ME. IT IS OVER 8 MONTHS SINCE IS APPOINTMENT AND I FEAR HE IS BUSY WAIVING MY APPEAL RIGHTS. I am only in Camden awaiting trial because of the gross incompetence of Mr Brennan AND NOW THE PATTERN IS REPEATING ITSELF ALL OVER AGAIN. Can someone please investigate Mr Rudenstien's indifference and outright refusal to initiate any type of appeal strategy. I have NO DOUBT there is NO lawyer that will travel to Allentown LSCI in White Deer Pa when no lawyer will travel 2 miles from the U.S. Courthouse to Camden to help me with my appeal. I HAVE BEEN BETRAYED BY THE LEGAL SYSTEM AND ESSENTIALLY HAVE BEEN RAILROADED BY THE United States ATTORNEY AND THE "SYSTEM." PLEASE, if there is anything that anyone can do to assist me in obtaining the services of an attorney that can provide effective assistance of counsel I will be forever grateful. As I STATED EARLIER, THERE IS CLEAR AND CONVINCING EVIDENCE IN THE HANDS OF MR BRENNAN THAT CLEARLY SHOWS MUCH OF THE GOVERNMENT ACCUSATIONS ARE OUTRIGHT LIES. Also, the person that I mentioned earlier in this letter who is a "VICTIM" IN MY CASE but attempted to contact Mr Brennan over 300 times and also called Mr Posey, the AUTHOR OF MY P.S.R numerous times informing him of the many inaccuracies in his REPORT is available to confirm every accusation in this letter. Thank you for any help you can provide.

Robert Sturman  
Robert Sturman

ROBERT STURMAN  
LSCJ ALLENWOOD  
PO BOX 1500  
WHITE DEER PA 17887

52  
9/22/2011 to clerk  
Confidential  
Abel Rudenstien

CLERK OF COURT

3<sup>RD</sup> DISTRICT COURT OF APPEALS - 21400 US Courthouse 601 Market St  
PHILA PA. 19106

I am writing this letter in the hopes of resolving a fairly serious matter regarding appeal issues pending before appellate division of the the third circuit. My name is ROBERT STURMAN and I am currently in custody in Camden County Correctional Facility but will very soon be returned to Federal custody AT L.S.C.J. Allenwood, PO BOX 1500 White Deer PA 17887.

In JANUARY 2011 Federal Judge R. Barclay Surrick appointed David Rudenstien to handle appeal issues regarding my guilty plea and sentencing on or about DECEMBER 10<sup>th</sup>, 2010, I made three attempts to contact Mr Rudenstien by U.S. mail and several attempts to contact him by phone. Mr Rudenstien refused to accept any phone calls or emails to this date and responded by mail that he would contact me when he was ready.

It has come to my attention that Mr Rudenstien will very soon be filing briefs before the Court on my behalf. I want it known that Mr Rudenstien has NO knowledge of many of the facts surrounding the legal errors regarding both my sentencing and my previous lawyers ineffective assistance of counsel. I have written Judge Surrick at least eight times regarding Mr Rudenstien refusal to talk to or meet with me. I have asked JUDGE SURRICK many times to replace Mr Rudenstien for the above reasons but to date Judge Surrick has not returned any of my letters.

I am writing this letter in the hope that I can preserve any and all rights afforded to me by the United States Constitution. I am sending copies of this letter to Judge Surrick and Mr Rudenstien but my hope is that there is some branch of government that can assist me in finding an attorney that can and will provide effective assistance of counsel. It is my firm belief that it would be impossible for Mr. Rudenstien to file any brief on my behalf without ever communicating with me in any way.



after I informed him by mail that there were what I considered to be very egregious errors regarding both my sentencing and my previous attorney.

Any help that you can provide would be greatly appreciated.

Thank You,

Robert Sturman

Robert Sturman FEDERAL # 61613-066

L.S.C.I ALLENWOOD

PO Box 1500

WHITE DEER PA 17887

ROBERT STURMAN

DEAR MR RUDENSTIEN

SEPT 15, 2011

IT IS NOW OVER 9 MONTHS SINCE YOU WERE APPOINTED TO REPRESENT ME REGARDING MY APPEAL IN UNITED STATES FEDERAL DISTRICT COURT. DESPITE MY MANY ATTEMPTS TO CONTACT YOU THROUGH PHONE, E MAIL AND U.S MAIL YOU HAVE REFUSED TO ACCEPT ~~ANY~~ <sup>MY</sup> CALLS, OR EMAILS. I HAVE WRITTEN YOU AT LEAST THREE LETTERS INFORMING YOU THAT I HAVE VERY VALID APPEAL ISSUES REGARDING MY SENTENCING AS WELL AS MY ATTORNEY, WILLIAM J BRENNAN'S GROSS EGREVIOUS INEFFECTIVE ASSISTANCE OF COUNSEL. YOU REFUSE TO CONTACT ME REGARDING MY APPEALS DESPITE THE FACT I HAVE BEEN IN CAMDEN COUNTY CORRECTIONAL FACILITY JUST 2 MILES FROM THE U.S. COURTHOUSE. I DON'T KNOW WHAT IT TAKES TO HAVE YOU REPLACED BUT I HAVE WRITTEN JUDGE SURRICK AT LEAST 8 LETTERS ASKING HIM TO DO SO. OF COURSE JUST LIKE YOU HE DOES NOT RESPOND. THAT LEADS TO ME TO BELIEVE THAT THE ENTIRE JUDICIAL SYSTEM IS ONE BIG JOKE. THERE IS OVERWHELMING EVIDENCE THAT MR BRENNAN REFUSED TO ATTEMPT TO PREPARE A DEFENSE OR INFORM THE COURT OF ISSUES SURROUNDING GOVERNMENT OUTRAGEOUS BEHAVIOR, PROSECUTORIAL MISCONDUCT, AND FACTORS THAT SHOULD HAVE BEEN PRESENTED AT SENTENCING. I AM FILING COMPLAINTS ABOUT YOUR TOTAL LACK OF PROFESSIONALISM WITH THE APPROPRIATE GOVERNMENT AND LEGAL AGENCIES. YOU ARE A DISGRACE TO THE LEGAL PROFESSION AND MR FINNEY IS NO BETTER. YOU BOTH IGNORE THE RIGHTS OF U.S CITIZENS AND IGNORE THE JOBS YOU ARE PAID TO PERFORM.

ROBERT STURMAN

MR FINNEY, AS YOU ARE EMPLOYED BY THE GOVERNMENT TO PERFORM A JOB COULD YOU PLEASE HAVE THE DECENCY AND COURTESY TO RESPOND TO JUST ONE OF MY LETTERS SO THAT I MIGHT GET THE REPRESENTATION I AM LEGALLY ENTITLED TO. YOU HAVE IGNORED EVERY LETTER I HAVE SENT. PREVIOUSLY. SHAME ON YOU

Robert Sturman 252979  
 CAMDEN COUNTY Correctional Facility  
 PO Box 90431  
 CAMDEN NJ 08102

(21)  
 to Brennan

9/21/2011

Dear Mr. Rudenstein,

This letter serves as my authorization requesting you file NO Briefs or Motions on my behalf in the Third District Court of Appeals. For the nine months you have represented me you have refused to accept any of my phone calls or EMAILS. You know nothing about the basis for any appeal issues regarding both my sentencing issues and Mr Brennan's ineffective assistance of counsel. I sent you three letters all expressing the importance of speaking with you so that you might have become aware of the grave injustices and illegal treatment on the part of the United States Attorney. I also sent you a letter in June of 2011 informing you I was facing identical charges as my federal case in Camden County and that I would be arriving at Camden County Correctional Facility within a matter of a few weeks. Additionally, a friend of mine left you at least 2 messages that I HAD already arrived at Camden County shortly after my arrival. Over the nine months you have represented me you have made no effort to visit or call me. You also have requested no input from me. You have NO idea of many of the issues that are Valid SENTENCING ISSUES, despite the fact I informed you by mail that I HAD SERIOUS APPEAL MATTERS. I have asked Judge Surick to replace you numerous times as you expressed no interest in acting in a professional manner, but he too has not responded to any of my requests. AGAIN, DO NOT FILE ANY LEGAL BRIEFS OR MOTIONS ON MY BEHALF UNLESS IT IS TO REMOVE YOU AS COUNSEL.

Robert H. Sturman

CL, US THIRD DISTRICT COURT OF APPEALS

FED ID # 61613-066

Honorable R. Barclay Surick FEDERAL ADDRESS

LSCI ALLENWOOD P.O. Box 1500  
 WHITE DEER PA 17887



ROBERT STURMAN

17  
Counsel

Clerk of Court

9/21/2011

Third Circuit Court of Appeals  
Philadelphia Pa

I have sent Honorable R. Barclay Surrick at least 8 letters requesting him to replace David Rudenstein as my attorney. To date I have received no response from Judge Surrick. Mr Rudenstein has never met with, talked to, or in anyway communicated with me in any way. He has NO KNOWLEDGE OF any of the appeal issues regarding errors regarding both my sentencing and my previous lawyers' ineffective assistance of counsel. Do not accept any legal documents, Briefs or motions filed by Mr Rudenstein on my behalf as I DO NOT WANT MY APPEAL RIGHTS WAIVED. Any help that you can provide in instructing me how to fire Mr Rudenstein and have a new attorney appointed would be greatly appreciated.

Thank You for any help you can provide

FED ID#

Robert Sturman  
61613-066

L.S.C.I ALLENWOOD

PO BOX 1500

WHITE DEER PA 17887

Robert Sturman

61613-066

LSCI - Allenwood

P.O. Box 1000

White Deer, PA 17887

February 10, 2012

Clerk of the Court

United States Court of Appeals

for the Third Circuit

James A. Byrne Courthouse

601 Market Street, Room 21400

Philadelphia, PA 19106-1729

Re: United States v. Robert Sturman

Docket No. 10-4705

Dear Sir/Madam:

I am the Defendant/Appellant in the above-styled and numbered appeal.

I am very frustrated. Although I am represented by IA Counsel, David Rudenstein, I have received nothing from him since November 9, 2011, when he furnished me with a copy of "my" Opening Brief and Appendices. Even though I have written him letters, a copy of the latest enclosed herein, he has been altogether non-responsive.

For reasons known only to Mr. Rudenstein, he has been unable or unwilling to provide me copies of this court's docket, the Government's brief or the transcripts of my Change of Plea and Sentencing

Letter to Clerk of the Court  
U.S. Court of Appeals for the 3rd Circuit  
February 10, 2012 - Page 2

Hearings in the District Court. Moreover, by now he should have filed a Reply Brief. I have no idea if such has been prepared or filed.

I am hoping that you can assist me in solving these issues, or in the alternative, bring them to the attention of the merits panel.

Clearly, I am not happy with my appointed counsel and I am attempting to marshal resources with which to hire substitute counsel. If that is not possible, I would seek leave of this Court to file a pro se brief. Without the above-mentioned material, I cannot effectively do either.

Thank you for whatever assistance you may be able provide and for your anticipated timely response.

Sincerely,

Robert Sturman

Enclosure

Robert Sturman  
Nº 61613-066  
LSCI Allenwood  
PO Box 1000  
White Deer PA 17887

28 November 2011

David Rudenstein, Esq.  
9411 Evans St.  
Philadelphia PA 19115

Dear Mr. Rudenstein:

It is my understanding that the gov't will respond to my appeal shortly. I would like to give you a direction in the management of my case: prior to any subsequent communication or filing with either the government or with the court I would like to be consulted for input and approval of such communication or filing. I believe this will result in a far more accurate and superior argument in my case. Many thanks for your assistance.

Regards,

Robert Sturman



**DAVID S. RUDENSTEIN**  
**Attorney at Law**

Phone: 215-464-7890 -- Fax: 215-464-7891

Member PA & NJ Bar

**INMATE/CERTIFIED MAIL TO:**

**Blue Grass Plaza**  
**2417 Welsh Road, Box # 501**  
**Philadelphia, PA 19114**

**ALL OTHER MAIL TO:**

**9411 Evans Street**  
**Philadelphia, PA 19115**

November 9, 2011

Robert Sturman  
Register # 61613-066  
FCI Allenwood-Low  
Box 1000  
White Deer, PA 17887

*11/7/2011  
Received by lock*

Dear Mr. Sturman:

I am glad that we were finally able to speak over the phone last Tuesday morning.

Enclosed please find a filed copy of the Brief for Appellant and Appendix I & II. Please note that inmates are not permitted to receive a copy of the docket entries and so those pages from Appendix II have been removed. Otherwise, all other documents are there.

I will be in touch once I hear from the Third Circuit. Of course, it could well be many months before any decision is rendered. I must ask for your patience. Thank you.

Very truly yours,



David Rudenstein

DSR/mer  
encl:

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UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

**No. 10-4705**

United States v. Sturman

To: Clerk

1) Letter by Appellant Pro se for Leave to File Pro se Brief

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Appellant, who is represented by counsel, seeks leave to file a pro se brief. At the direction of the Court, the request is DENIED.

For the Court,

/s/ Marcia M. Waldron  
Clerk

Dated: March 6, 2012

Smw/cc: Karen L. Grigsby, Esq.  
David S. Rudenstein, Esq.  
Mr. Robert Sturman